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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,525	04/12/2004	Michel Mathia	10901/69	4870
26646	7590	11/28/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			BHAT, ADITYA S	
			ART UNIT	PAPER NUMBER
			2863	

DATE MAILED: 11/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

**Office Action Summary**

Application No.

10/823,525

Applicant(s)

MATHIA ET AL.

Examiner

Aditya S. Bhat

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3 and 6-9 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION*****Drawings***

The drawings are objected to because figures 4 and 5 of the flow chart are handwritten. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Delfosse et al. (USPN 5,278,913).

With regards to claim 1, Delfosse et al. (USPN 5,278,913) teaches a method for analyzing a drive system, comprising:

successively applying a plurality of noise signals to the drive system as input signals, the noise signals covering different frequency ranges; (Refer to figures 1-3) and

determining a transfer function of a target system within the drive system in accordance with the noise signals applied to the drive system in the applying step. (Refer to figures 1-3)

With regards to claim 2, Delfosse et al. (USPN 5,278,913) teaches the noise signals have different intensities. (140;Refer to figures 1-3)

With regards to claim 3, Delfosse et al. (USPN 5,278,913) teaches optimizing the intensities by increasing the intensities in steps until a maximum value of a limiting parameter of the drive system is near a limiting value. (140;Refer to figures 1-3)

With regards to claim 6, Delfosse et al. (USPN 5,278,913) teaches the transfer function of the target system in an open control loop is determined in accordance with difference signals applied to the target system and corresponding output signals. (Refer to figures 1-3)

With regards to claim 7, Delfosse et al. (USPN 5,278,913) teaches the determining step includes evaluating a frequency-dependent attenuation and a phase shift between the difference signals and the output signals. (Col.5, lines 62-65)

With regards to claim 8, Delfosse et al. (USPN 5,278,913) teaches a device for analyzing a drive system, comprising:

an arrangement configured to successively apply a plurality of noise signals to the drive system as input signals, the noise signals covering different frequency ranges; (140;Refer to figures 1-3) and

an arrangement configured to determine a transfer function of a target system within the drive system in accordance with the noise signals applied to the drive system.

With regards to claim 9, Delfosse et al. (USPN 5,278,913) teaches a device for analyzing a drive system, comprising:

means for successively applying a plurality of noise signals to the drive system as input signals, the noise signals covering different frequency ranges; (140;Refer to figures 1-3) and

means for determining a transfer function of a target system within the drive system in accordance with the noise signals applied to the drive system. (Refer to figures 1-3)

### ***Allowable Subject Matter***

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claims 4 and 5:

The primary reason for the allowance of claim 4 is the inclusion of the method steps of: the noise signals include noises in several frequency bands that always begin at a same lower cutoff frequency and end at a different upper cutoff frequency, the input signal having a widest frequency band completely covering a frequency range to be

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tested. It is this feature found in the claim, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claim 5 is the inclusion of the method steps of: the noise signals include one of (a) non-overlapping frequency ranges and (b) frequency ranges that overlap slightly, the frequency ranges together covering a frequency range to be tested. It is this feature found in the claim, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Response to Arguments***

Applicant's arguments filed 9/19/2005 have been fully considered but they are not persuasive.

Applicant is reminded that during patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

While the meaning of claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claims must be interpreted as broadly as their terms reasonably allowed. This means that the words of the claim must be given their plain meaning unless applicant has provided a clear definition in the specification. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this instance applicant argues that the prior art of record does not teach applying a plurality of noise signals covering different frequency ranges, (col. 2, lines 5-60), determining a transfer function and how a transfer function of the loud speaker is determined. (Col. 5, Lines 62-65)

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eriksson (USPN 4,677,676) teaches active attenuation system with online modeling of speaker error path and feedback path, and Twiney et al. (USPN 4,953,217)

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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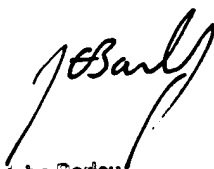
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aditya S. Bhat whose telephone number is 571-272-2270. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aditya Bhat  
November 18, 2005

  
John Barlow  
Supervisory Patent Examiner  
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